

INNER WEST LOCAL PLANNING PANEL
MEETING

18 June 2024

MINUTES

MINUTES of INNER WEST LOCAL PLANNING PANEL MEETING held via teleconference on 18 June 2024.

Present: Dr Gary Shiels AM in the chair; Mr Brian Kirk; Ms Vanessa Holtham; Ms Silvia Correia.

Staff Present: Ruba Osman, Development Assessment Manager; Senior Development Support Officer, Clare Fitzpatrick -Clark and Development Support Officer, Gerardine Galley

Meeting commenced: 2.02pm

ACKNOWLEDGEMENT OF COUNTRY

I acknowledge the Gadigal and Wangal people of the Eora nation on whose Country we are meeting today, and their elders past and present.

DECLARATION OF PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS

The following declarations of interest were made:

Item 2

Ms Vanessa Holtham declared a non-pecuniary perceived conflict of interest as she has a friendship with nearby property owners and has also worked with the applicant as a heritage consultant.

IWLPP1250/24 Agenda Item 1	MOD/2023/0318
Address:	93 Louisa Road Birchgrove
Description:	Section 4.55(2) Modification of Development Consent D/2018/25 seeking an increase in height of a lift over run and a new window No. 18 to Bedroom 1 with external louvres.
Applicant:	Mr Franco Bilotta

The following people addressed the meeting in relation to this item:

- Dr Joseph Macri – objector
- Dr Henry Cheung – objector
- Peter Tomasetti SC – Instructed by Dilan Lawyers – on behalf of applicant

DECISION OF THE PANEL

- A. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55(2) of the *Environmental Planning and Assessment Act 1979*, refuses Application No. MOD/2023/0318 which seeks to increase the height of a lift over run and provide a new window No. 18 to Bedroom 1 with external louvre at 93 Louisa Road, Birchgrove, for the following reasons:
1. The proposed development is inconsistent and has not demonstrated compliance with the relevant environmental planning instruments, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - a) *SEPP (Building Sustainability Index: BASIX) 2004*;
 - b) *SEPP (Biodiversity and Conservation) 2021*; and
 - c) The following Sections of the *Inner West Local Environmental Plan 2022*:
 - i) Section 1.2 - *Aims of the Plan*;
 - ii) Section 2.3 - *Zone Objectives and Land Use Table*; and
 - iii) Section 5.10 - *Heritage Conservation*.
 2. The proposed development is inconsistent and has not demonstrated compliance with the following provisions of the following Development Control Plans, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - a) Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005; and
 - b) The following parts of the Leichhardt Development Control Plan 2013:
 - i) Part C1.0 - *General Provisions*;
 - ii) Part C1.1 – *Site and Context Analysis*;
 - iii) Part C1.4 - *Heritage Conservation Areas and Heritage Items*;
 - iv) Part C 1.20 – *Foreshore Land*;
 - v) C2.2.2.6 - *Birchgrove Distinctive Neighbourhood & C2.2.2.6(a) Louisa Road Sub Area*;
 - vi) Part C3.1 - *Residential General Provisions*;
 - vii) Part C3.2 - *Site Layout and Building Design*; and
 - viii) Part C3.11 0- *Visual Privacy*

3. The proposal will result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979.
4. The adverse environmental impacts of the proposal demonstrate that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
5. The approval of this application is likely to create an adverse precedent and is considered contrary to the public interest, pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979.

REASONS FOR DECISION

The Panel considered a request from Mr Tomasetti SC that the application be deferred so that amended plans submitted to Council could be assessed. Subsequently, the Panel was advised by Council officers that the amended plans and submission were considered at lodgment and at that time the applicant was advised that the amended plans did not resolve the concerns identified by Council. Accordingly, the Panel could not see any benefit in deferring the application.

The Panel supports the findings contained in the Assessment Report and endorses the reasons for the refusal contained in that Report.

The proposal fails to comply with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022 and Leichhardt Development Control Plan 2013*.

The development would result in significant environmental impacts on the amenity of the adjoining properties and the streetscape and is not considered to be in the public interest.

The application is considered unsupportable, and in view of the circumstances, the application is refused.

The decision of the panel was unanimous.

IWLPP1251/24 Agenda Item 2	DA/2023/1023
Address:	43 and 45 Ilka Street Lilyfield
Description:	Subdivision of 2 lots into 3 lots and construction of new three storey residential dwelling to Moore Lane.
Applicant:	Sago Design

Panel member Vanessa Holtham declared a non-pecuniary perceived conflict in this matter and did not participate in the briefing, public meeting, or other Panel discussions on this matter.

The following people addressed the meeting in relation to this item:

- *John Neylon – objector*
- *Aimee Neylon – objector*
- *Heidi Thorne - objector*
- *Krystal Narbey – GAT & Associates – Town Planner on behalf of applicant*
- *Ayesha Gaunt – Sago Design – Architect on behalf of applicant*

DECISION OF THE PANEL

- A.** The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the maximum FSR and Minimum lot size standards are unnecessary in the circumstances of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B.** The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2023/1023 for subdivision of 2 lots into 3 lots and construction of new three storey residential dwelling to Moore Lane at 43 and 45 Ilka Street, Lilyfield subject to the conditions listed in Attachment A as amended by the Panel below.

REASONS FOR DECISION

The Panel noted that one of the main reasons for objections from neighbours was the loss of privacy from balconies overlooking the rear of properties in Moore Street. The Panel noted that the "balconies" were in fact window reveals and should not result in any unreasonable impacts.

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Leichhardt Development Control Plan 2013.

The development will not result in any significant impacts on the amenity of the adjoining properties or the streetscape and is considered to be in the public interest.

The Panel supports the findings contained in the Assessment Report and approves the application, subject to the conditions contained in that report, and the amended condition below:

Amend condition 30 as follows:

Design Change

Prior to the issue of a Construction Certificate, amended plans are to be submitted to the satisfaction of Council's Manager Development Assessment demonstrating the following:

- i) The proposed gates on 41 and 43 Ilka Street are redesigned so that the gates cannot swing outwards or encroach onto the public domain.
- ii) That the fence is accurately depicted in plan and elevation having regard to the existing site circumstances and that the height and material is consistent with the prevailing pattern of fences in the street.

Reason: To ensure that the design changes protect the amenity of the neighbourhood

The decision of the Panel of three was unanimous, noting that Vanessa Holtham did not participate in the briefing, public meeting, or other Panel discussions on this matter.

IWLPP1252/24 Agenda Item 3	DA/2023/1099
Address:	233 Catherine Street Leichhardt
Description:	Construction of a mezzanine level, internal fitout works and change of use of Units 3 – 5 to a Veterinary Hospital. Operating hours are 8.00am - 6.00pm Mondays to Fridays and 8.00am - 2.00pm on Saturdays. Operating hours of emergency services are 24 hours a day, Mondays to Sundays.
Applicant:	Margaret Blackman

The following people addressed the meeting in relation to this item:

- Tim Cooper – Chapman Planning – Town Planner on behalf of applicant

DECISION OF THE PANEL

- A.** The applicant has made a written request pursuant to Section 4.6 of the Inner West Local Environmental Plan 2022. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Section 4.4 Floor space ratio standard is unnecessary in the circumstances of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B.** The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grants consent to Development Application No. DA/2023/1099 for the construction of a mezzanine level, internal fitout works and change of use of Units 3 – 5 to a Veterinary Hospital. Operating hours are 8.00am - 6.00pm Mondays to Fridays and 8.00am - 2.00pm on Saturdays. Operating hours of emergency services are 24 hours a day, Mondays to Sundays at 233 Catherine Street LEICHHARDT subject to the conditions listed in Attachment A.

REASONS FOR DECISION

The proposal generally complies with the aims, objectives and design parameters contained in Inner West Local Environmental Plan 2022 and Leichhardt Development Control Plan 2013.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The Panel supports the findings contained in the Assessment Report and approves the application subject to the conditions contained in that report, and the amended condition below:

The decision of the panel was unanimous.

IWLPP1253/24 Agenda Item 4	DA/2023/1064
Address:	314 Canterbury Road, Hurlstone Park
Description:	Extension of trading hours at the existing Hurlstone Park McDonald's to operate 24 hours, 7 days a week
Applicant:	Mc Donalds Australia Ltd

The following people addressed the meeting in relation to this item:

- Grace Moses – Applicant

DECISION OF THE PANEL

- A. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2023/1064 for extension of trading hours at the existing Hurlstone Park McDonald's to operate 24 hours, 7 days a week on trial basis at 314 Canterbury Road Hurlstone Park subject to the conditions listed in Attachment A below:

REASONS FOR DECISION

The Panel noted concerns from residents, relating to waste left in the public domain and the proposed cleaning in the area. The Panel felt that the Plan of Management should be strengthened, to protect the environment.

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development will not result in any significant impacts on the amenity of the adjoining premises, properties or the streetscape and is considered to be in the public interest.

The Panel supports the findings contained in the Assessment Report and approves the application, subject to the conditions contained in that report, and the amended conditions below:

That condition 4 be amended as follows:

4. Trial Hours

- a. The hours of operation of the premises must not exceed the following:

Day	Hours
Sunday to Thursday	6:00am - 12:00am Midnight
Friday to Saturday	6:00am - 2:00am

- b. For a period of **12** months from Council's approval of the Plan of Management as required by Condition 9, the hours of operation of the premises must not exceed the following:

Day	Hours
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Monday to Sunday	24 hours
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- c. A continuation of the extended hours will require a further application under the Environmental Planning and Assessment Act 1979.

Reason: To protect the amenity of the neighbourhood.

That condition 5 be amended as follows;

5. Ongoing Crime Prevention Management

The on-going use of the premises must implement the following recommendations into the Plan of Management:

- a) Review and maintain all CCTV cameras ensuring high quality video recording, especially cameras located on the exterior of the building.
- b) CCTV footage must be kept for a minimum of 30-days.
- c) CCTV cameras must be maintained and kept free of cobwebs, especially the exterior cameras.
- d) The CCTV cameras must be registered online with the NSW Police CCTV camera database at: https://www.police.nsw.gov.au/online_services/register_my_business_cctv_detail
- e) Review and maintain all lighting near the CCTV cameras to always ensure visibility.
- f) All existing lights must undergo an audit to ensure they are operational and highlight any potential hiding spots.
- g) A time limit of 30min be placed in the carpark to deter loitering and anti-social behaviour after 10pm.
- h) Install signage within the carpark, external perimeter, fences, main access areas of the building (signs facing towards entry points) to deter and warn people against unfavourable behaviour such as "No Loitering", "No Littering" and "Keep noise levels down".
- i) Security guards are to be recruited for overnight operations from Thursday to Saturday evenings/morning, and public holiday operations to protect staff and customers and deter anti-social activity in the carpark.
- j) A sweep of McDonalds rubbish along surrounding streets must be completed by at least 2 staff members a minimum of 3 times per day (early morning and evening and midnight).

Reason: To protect the amenity of the neighbourhood.

That condition 8- Plan of Management in the report becomes condition 9, and a new condition 8- "Revised Plan of management" is to be inserted accordingly as detailed below;

That condition 8 in Attachment A becomes condition No 9 and is amended as follows;

9. Plan of Management

- (1) The Plan of Management is to be amended to incorporate all the requirements of the conditions imposed in this consent and a revised Plan of Management is to be submitted to Council's satisfaction prior to commencing the trial period for extended trading hours.

- (2) The operation of the premises complying at all times with the approved amended Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.
- (3) A non-illuminated sign is to be displayed at the entrance to the building advising that a copy of the current Plan of Management is available to be viewed on-site by any person who wishes to do so. This is in addition to the provision in the Plan of Management that a copy (physical or digital) will be made available to all staff, visitors or contractors.

Reason: To protect the amenity of the neighbourhood.

Add the following condition.

8. Revised Plan of Management

Before operation of the extended hours, the plan of management is to be updated to incorporate the following:

- a. **3.2 Site Capacity** is to specify the maximum number of patrons within the venue. In accordance with the last approval (DA/ /2021/1099) the venue has capacity for 54 patrons.
- b. **3.3 Operational Hours** is to include the base approved hours and note that the 24 hours are approved as a trial.
- c. **4.1.1 CCTV** is to be amended to incorporate the requirements of condition 5 ongoing crime prevention management.
- d. **4.1.4 Crowd Control** is to specify the actual venue capacity of 54 patrons.
- e. **4.3.2 Toilets** is to specify that the use of the toilets is available at all times during operating hours.
- f. **5.5 Registering of Complaints** is to be amended to incorporate that an official Complaints Register is created which relates to the operation of the premises, this register shall contain full details of any disturbance complaints made by a person to management or staff in respect to the operation of the premises and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaints and any complainant details if provided. The register is to be made available to Council or the Police on request.
- g. Management shall respond to any disturbance complaints in a timely and effective manner. All actions undertaken by management / staff to resolve such complaints shall be recorded in the Register.
- h. **5.7 Noise Management** is to be amended to include the recommendation within the acoustic report that the Customer Ordering Displays are to be set at the lowest volume setting after 10pm.
- i. **5.8 Rubbish Sweeps** is to be amended to identify the patrol area to include Hilcot Street, Queen Street and Griffiths Street.

Reason: To protect the amenity of the neighbourhood.

10. Emergency Site Contact

A non-illuminated A4 sized sign providing details of the person nominated as the emergency site contact, is to be located on each street frontage.

Reason: To assist emergency services attending the site and for the information of residents of the local area.

The decision of the panel was unanimous.

IWLPP1254/24 Agenda Item 5	REV/2024/0010
Address:	4 Adolphus Street BALMAIN
Description:	Section 8.2 Review of DA/2024/0042, for removal of tree in front setback. Review seeks to amend condition 3 which relates to replacement tree planting.
Applicant:	Trent Tavoletti

There were no speakers for this item:

DECISION OF THE PANEL

- A.** The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s8.2 of the *Environmental Planning and Assessment Act 1979*, refuses Application No. REV/2024/0010 which seeks review of condition 3 of Determination No DA/2024/0042 dated 29 February 2024, relating to replacement tree planting at 4 Adolphus Street BALMAIN for the following reasons.
1. The proposed development is inconsistent with, and has not demonstrated compliance with the Inner West Council Tree Management Development Control Plan 2023, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
 - a. Part 2 - Objectives and Part 3 - Controls, as the proposal does not comply with control C10 and C12 within Part 3 and is inconsistent with the objectives O2, O4, and O6 as it would result in adverse impacts on the landscape quality, character, and amenity of the streetscape and the Inner West Local Government Area
 2. The proposed development will result in adverse impacts in the locality as it would not make a significant contribution to the urban landscape of the Inner West Local Government Area pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
 3. The proposal has not demonstrated that it is in keeping with the landscape character of the site, streetscape, and surrounding residential neighbourhood pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
 4. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

REASONS FOR DECISION

The proposal does not comply with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

The development would result in adverse impacts on the landscape quality, character, and amenity of the streetscape and the Inner West Local Government Area and is not considered to be in the public interest.

The Panel supports the findings contained in the Assessment Report and endorses the reasons for the refusal contained in that Report.

The decision of the panel was unanimous.

IWLPP1255/24 Agenda Item 6	DA/2024/0120
Address:	26 Yeend Street BIRCHGROVE
Description:	Alterations and additions to existing strata titled townhouse.
Applicant:	Christopher Jordan

There were no speakers for his item:

DECISION OF THE PANEL

- A. The applicant has made written requests pursuant to Section 4.3C and 4.4 of the *Inner West Local Environmental Plan 2022*. After considering the requests, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the FSR, Landscape Area and Site coverage standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedances are not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grants consent to Development Application No. DA/2024/0120 for alterations and additions to the existing strata townhouse at 26 Yeend Street BIRCHGROVE subject to the conditions listed in Attachment A.

REASONS FOR DECISION

The proposal generally complies with the aims, objectives and design parameters contained in Inner West Local Environmental Plan 2022 and Leichhardt Development Control Plan 2013.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The Panel supports the findings contained in the Assessment Report and approves the application, subject to the conditions contained in that report.

The decision of the panel was unanimous.

IWLPP1256/24 Agenda Item 7	MOD/2023/0430
Address:	35 Waterview Street BALMAIN
Description:	Section 4.55(2) Modification of Development Consent DA/2021/0124, as last modified by MOD/2022/0247, which approved demolition of rear section of existing residence, refurbishment of existing brick building at front of site, and addition of three level rear extension. The subject modification application seeks the following: <ul style="list-style-type: none"> a. Permit a bi-fold fence/gate to the rear boundary fronting Jagers Lane spanning the width of the property. b. The addition of a privacy screen to the south-western end of the elevated ground floor rear terrace similar to that already approved on the north-eastern end of the terrace.
Applicant:	Ollo & Co Pty Ltd

The following people addressed the meeting in relation to this item:

- Edward Walsh – objector
- Bob Stephenson – objector
- Dyranda Hortle - objector
- Rory Steinle-Davies – supporter
- Huw Davies - Owner

DECISION OF THE PANEL

- A. The Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55(2) of the Environmental Planning and Assessment Act 1979 refuses Modification Application No. MOD/2023/0430 at 35 Waterview Street, Balmain.

The Panel does not have the statutory power to grant approval for works retrospectively, and as such the privacy screen and internal works cannot be approved by the Panel. The Panel agrees with the assessment report regarding the need to refuse and remove the bi-fold fence/gate at the rear of the site, and resolves that the application be **refused** for the following reasons:

1. The council is without power to grant approval to a modification for works retrospective, which have already been constructed.
2. The bi-fold fence/gate and its extent is unnecessarily wide for domestic use and could facilitate/enable vehicular access to the rear yard which fails to comply with Part C1.11: *Parking*, of the Leichhardt Development Control Plan 2013
3. The proposal will result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979.
4. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.

5. The approval of this application is likely to create an adverse precedent and is considered contrary to the public interest, pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979.

REASONS FOR DECISION

The Panel heard from surrounding residents opposing the modification and the applicant's representatives. It was not clear to the Panel the extent of unauthorized work that has been carried out, and the Panel was concerned with the potential impacts resulting from the modification. The proposal seeks approval for works carried out without approval and the Panel is without power to grant approval to unauthorized works retrospectively. In light of the lack of clarification and the potential impacts of the works, the Panel concluded that the modification should be refused.

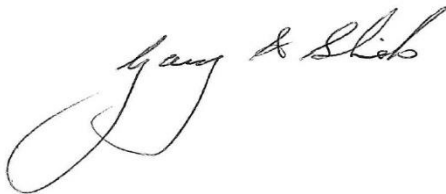
The Panel considered the proposal to provide a wide bi-fold fence/gate at the rear of the site would provide the potential for vehicular access and it was noted that a considerable amount of work had been carried out to facilitate that objective. The work to the rear gate is not supported by the Panel.

Having regard to the above, the proposal is contrary with the aims, objectives and design parameters contained in Inner West Local Environmental Plan 2022 and Leichhardt Development Control Plan 2013 and notwithstanding the council officer's recommendation the modification is refused for the reasons stated above.

The decision of the panel was unanimous

The Inner West Planning Panel Public Meeting opened at 2.02pm
The Inner West Planning Panel Public Meeting closed at 3.03pm
The Inner West Planning Panel Meeting finished at 5:12pm.

CONFIRMED:

A handwritten signature in cursive script, appearing to read "Gary Shiels".

Dr Gary Shiels AM
Chairperson
18 June 2024